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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,071	12/19/2001	Thomas Harold Roessler	KCC-16,085	8345

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PAULEY PETERSEN KINNE & ERICKSON  
2800 WEST HIGGINS ROAD  
SUITE 365  
HOFFMAN ESTATES, IL 60195

EXAMINER
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GRAY, LINDA LAMEY

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 02/12/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/025,071

Applicant(s)

ROESSLER

Examiner

Linda L Gray

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12-19-01, 3-26-02, 5-6-03, 5-9-03, 6-30-03.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 and 23-25 is/are rejected.
- 7) ☒ Claim(s) 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,5,3,4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**Detailed Action**

**Election/Restriction**

1. The telephone restriction requirement of 9-8-03 is withdrawn.

**Claim Rejections - 35 USC § 103**

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roessler (US 5,683,531).**

**Claims 1 and 23-24**, Roessler et al. teach supplying retention-barrier composite web 58 having absorbent material 66 adhered to liquid barrier sheet 62 and cut into product lengths at 74, providing soft and flexible backsheet 14, adding soft and flexible waist elastic 48a to backsheet 14, adding soft and flexible leg elastic 30/32/34/36 to backsheet 14, coating the construction of 14, 48a, and 34/36 with adhesive and adhering the product lengths between elastic 48a and 34/36 to backsheet 14, adhering soft and flexible topsheet 76 over the construction including the backsheet 14 and the product lengths, and cutting into individual absorbent personal care products 112. Note the product lengths entirely between elastic 48 and 34/36.

***Claim 1**, Roessler et al. do not teach a fluid distribution layer adhered to the product length.*

However, fluid distribution layers are conventionally used because such provide control as to where the fluid is absorbed, i.e., for even distribution or separated distribution, and for this reason it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Roessler et al. a fluid distribution layer adhered to the product length because

**Claims 2-4**, sheet 62 is liquid impermeable, vapor permeable, and inherently breathable.

***Claims 5-6**, Roessler et al. do not teach sheet 62 to be elastic.*

However, it is conventional to use elastic for the liquid barrier sheet to help keep the core from tearing when stretched during use, and for this reason it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided for such in Roessler et al.

**Claims 7-8 and 10-11**, backsheet 14 is hydrophobic, vapor permeable, elastic, and extensible.

***Claim 9**, Roessler et al. do not teach backsheet 14 to be 0.6 osy spunbound, and **claim 19**, Roessler et al. do not teach topsheet 76 14 to be 0.5 osy spunbound.*

For **claim 9**, however, it is conventional to use such for correct vapor permeability and hydroresistance, and for this reason it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided for such in Roessler et al.

For **claim 19**, however, it is conventional to use such for correct permeability, and for this reason it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided for such in Roessler et al..

**Claims 12-13 and 15-16**, elastic 48a and 34/36 are liquid impermeable and vapor permeable.

***Claims 14 and 17**, Roessler et al. do not teach elastic 48 to be SBL laminate and elastic 34/36 to be SMS nonwoven laminate.*

However, it is conventional to use such for correct liquid impermeability and vapor permeability, and for this reason it would have been obvious to a person of

ordinary skill in the art at the time the invention was made to have provided for such in Roessler et al.

**Claim 18**, topsheet 76 is liquid impermeable. **Claims 20-21**, topsheet 76 is elastic and extensible.

***Claim 25, Roessler et al. do not teach containment flaps.***

However, containment flaps are conventionally used to prevent unnecessary leakage, and for this reason it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided for such in Roessler et al.

**Allowable Subject Matter**

**4. Claim 22 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.**

**5.** The following is a statement of reasons for the indication of allowable subject matter: **claim 22**, Roessler et al. do not teach wrapping a fluff pad in tissue forming a continuous retention web which is laminated to become part of the web 58

**6.** As allowable subject matter has been indicated, Applicants' reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

**Conclusion**

**7.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linda Gray whose telephone number is (571) 272-1228. The examiner can normally be reached Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino, can be reached at (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

llg

February 9, 2004

*Linda L. Gray*  
LINDA GRAY  
PRIMARY EXAMINER